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STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
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STEVEN E. CHESTER
DIRECTOR

October 18, 2004

FILE COPY

Mr. Chris Hubbell
Cherry Blossom L.L.C.
10190 Munro Road
Williamsburg, MI 48690

Dear Mr. Hubbell:

Thank you for your response sent through Mr. Joseph Quandt to the Notice Letter 08-04-03-019C. The letter indicates that you plan to apply for a groundwater authorization under Rule (R) 2211(d) of Part 31 of the Natural Resources and Environmental Protection Act, Act 451 P.A. 1994 as amended (NREPA) for water that is seasonally discharged from receiving sweet cherries. I discussed the use of this authorization for cherry receiving water with the Groundwater Permits Unit Chief, Mr. Jim Janiczek, of the Department of Environmental Quality (DEQ). It was determined that while the water is not technically fruit and vegetable wash water, the DEQ may be able to issue an authorization under R 2211(d) for this discharge if the discharge meets all of the criteria of the rule.

Specifically, R 2211 states that a person may be authorized to discharge under the rule if the requirements of R 2204 and R 2212 of the NREPA are met. R 2212 is the notification requirement. Enclosed is an application form for your use to supply the required information. R 2204 states that to receive an authorization, a person shall comply with the following:

- (a) *The discharge shall not be, or not be likely to become, injurious.*
- (b) *The discharge shall not cause runoff to, ponding on, or flooding of adjacent property, shall not cause erosion, and shall not cause nuisance conditions.*
- (c) *The point of discharge shall be located not less than 100 feet inside the boundary of the property where the discharge occurs, unless the discharge is authorized in T 323.2210, R 323.2211, or R 323.2213 or unless a lesser distance is specifically approved by the department in the authorization issued under these rules.*

It is not clear that the discharge complies with all of the requirements of R 2204. The DEQ has found that metals leach from soils when high Biological or Chemical Oxygen Demand (BOD or COD) waste is allowed to go anaerobic. The COD measured in the wastewater was approaching 8,000 milligrams per liter. At this level, many wastewaters would likely become injurious in violation of R 2204(a). In addition, the pH of the water was 3. Metals leaching reactions are increased by acidic conditions. Furthermore, the water was causing runoff and ponding on adjacent property and was likely the cause of nuisance odors called in as a complaint to the DEQ.

On June 24, 2004, Mr. Doug Thompson requested that Williamsburg Receiving and Storage (WRS) sample monitor wells at the site for iron and manganese. The results of well sampling in the vicinity of the discharge might be used to indicate whether these metals are leaching from soils. Please provide this data and sampling dates, along with the notification

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form, in order for the DEQ to determine whether the unpermitted discharge of high COD wastewater might have leached metals from soils into the groundwater. In addition, a method to keep the water on site, away from roadside ditches and without ponding or nuisance odors should be provided with the notification form. DEQ reported observations indicate that the discharge was creating all of the above listed problems in violation of R 2204.

The discharge of cherry receiving water to any portion of the stormwater collection/detention system also constitutes a violation of the company's Certificate of Coverage MIS510606 issued under General Permit No. MIS519000, Part 1.D.3. Prohibition on unauthorized Non-Storm Water discharges. This section of the general permit states that discharges of material other than storm water shall be in compliance with an NPDES permit.

The response letter from Mr. Quandt indicates that as an alternative to the notification authorization, Cherry Blossom may choose to make the discharge part of an overall permit modification for the WRS facility. You are advised that the standards of R 2204 must be met for any other type of permit authorization under the Part 22 Rules as well.

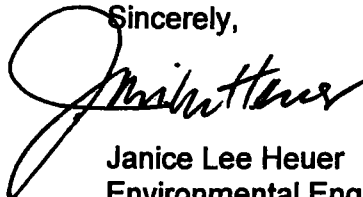
The company must keep all process water out of the stormwater system, away from roadside ditches and eliminate ponding and the presence of nuisance odors. These conditions must be met completely before the department can consider any coverage under Part 22 rules.

The response letter did not include a time line for when Cherry Blossom will provide legal documentation for the cherry receiving water discharge. Cherry Blossom must address all of the R 2204 concerns, and obtain legal authorization in accordance with the Part 22 Groundwater Quality Rules prior to any future discharges of the cherry receiving water.

This letter does not preclude nor limit the DEQ's ability to initiate any enforcement action under state or federal law, as deemed appropriate.

If you have any questions, feel free to call me.

Sincerely,



Janice Lee Heuer
Environmental Engineer
Water Bureau
231-775-3960, Extension 6203

cc: Mr. Joseph Quandt, Menmuir, Zimmerman, Kuhn, Taylor and Quandt, PLC
Ms. Sandra Beckwith, Whitewater Township Hall
Mr. Jim Janiczek, DEQ
Mr. Rick Ruzs, DEQ
Mr. Michael Stifler, DEQ